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June 6, 2012

VIA ELECTRONIC FILING

The Honorable Roanne L. Mann
United States District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Akman v. Pep Boys Manny, Moe & Jack of Delaware, Inc.*
d/b/a Pep Boys Auto; Civil Action No. 11-03252-MKB-RLM

Dear Judge Mann:

We represent Defendant Pep Boys – Manny, Moe & Jack of Delaware, Inc. (“Pep Boys”) in the above-referenced matter. Pursuant to Federal Rule of Civil Procedure 41(b), and Your Honor’s Order dated June 1, 2012, Pep Boys respectfully requests an Order recommending that Plaintiff’s Complaint be dismissed with prejudice.

As discussed in Pep Boys’ prior Letter Motion to Compel (Dkt. No. 12), Plaintiff has flatly refused to comply with his discovery obligations under the Federal Rules of Civil Procedure. In addition, he and his attorney have ignored all communications relating to the same. Accordingly, on May 24, 2012, Pep Boys filed its Letter Motion to compel complete discovery responses from Plaintiff. By Order entered the same day, the Court required Plaintiff to show cause on or before May 29, 2012 why the requested relief should not be granted (Dkt. No. 13).

Plaintiff filed no response and simply ignored the Court’s May 29, 2012 Order. As a result, the Court entered a second Order on June 1, 2012 granting, in part, Pep Boys’ Motion to Compel (Dkt. No. 14). The Court directed Plaintiff to “respond, without objection, by June 5, 2012 to all discovery demands served by defendant on April 2, 2012, and [] appear for his deposition on June 7, 2012.” (*Id.*) As of today, June 6, 2012, Pep Boys has received no discovery responses from Plaintiff nor received a single communication from his attorney.

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Plaintiff has now blatantly ignored two orders from this Court, including one warning of mandatory sanctions for non-compliance. Indeed, the Court's June 1, 2012 Order stated:

Plaintiff and his counsel are warned that any further violations of court orders and/or of plaintiff's discovery obligations will result in the imposition of monetary sanctions such as fees and costs, as well as a recommendation that the complaint be dismissed for lack of prosecution.

Therefore, and in accordance with the Court's Order, Pep Boys respectfully requests that this Court enter an Order dismissing with prejudice Plaintiff's Complaint. Pep Boys also respectfully requests that it be awarded its fees and costs.

Lastly, this letter also serves as notice to Plaintiff's counsel that the deposition of Plaintiff previously scheduled for June 7, 2012 is hereby canceled. Plaintiff's course of conduct makes it clear that he has no desire to pursue this matter any further.

Thank you for your consideration of this matter.

Respectfully Submitted,

/s/ Sean W. Sloan
Sean W. Sloan

SWS/jss

c: Joel M. Gluck, Esquire
Michael L. Banks, Esquire